REMARKS/ARGUMENTS

The Official Action dated 17 May 2005 has been carefully considered, along with cited references, applicable sections of the Patent Act, Patent Rules, the Manual of Patent Examining Procedure and relevant decisional law.

Claims 1-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Moua et al. 6,393,731.

Claims 1-5 and 7-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lombardino 6,055,747.

Applicant respectfully submits that the present invention is significantly different from that of the cited arts as can be seen from their respective structures. Applicant's invention as specified in the amended claims 1 and 5-9 is patentably distinguishable over these references when taken either singularly or in combination for the following reasons:

The Examiner cites Moua et al., for claims 1-9, as an example of a shoe sole having a heel portion and a front portion; a resilient cushioning device (54) engaged in the heel portion of the shoe sole for cushioning heel portions of users, the resilient cushioning device including a lower frame member (44) and an upper frame member 54 supported above the lower frame member, the device suspended in the shoe sole; the lower and the upper frame members include an intermediate portion 42 coupled together; a resilient member 62 engaged between rear portions of the lower frame member and the upper frame member; a resilient member 62 engaged between front portions of the lower frame member and the upper frame member; the lower frame member includes a rear portion having a U-shaped

structure (see wall 40, U-shaped to curve with the heel of the user); the lower frame member includes a front portion (that near arch) having a flat planar structure (bottom surface is flat and planar. Front portion of upper member is flat and planar); the upper frame member includes a rear portion having a O-shaped structure (64, O-shaped when viewed from the top or bottom); the upper frame member includes a front portion having a flat planar structure; the upper frame member includes a front portion having an opening formed therein (front portion is opening).

For claims 1-5 and 7-8, the Examiner further cites Lombardino as an example of a shoe sole 14 having a heel portion and a front portion; a resilient cushioning device 20 engaged in the heel portion of the shoe sole for cushioning heel portions of users, the resilient cushioning device including a lower frame member 22 and an upper frame member 26 supported above the lower frame member, the device suspended in the shoe sole; the lower and the upper frame members include an intermediate portion (sidewalls shown in Figure 2) coupled together; a resilient member 28, 50 engaged between front portions of the lower frame member and the upper frame member; the lower frame member includes a rear portion having a U-shaped structure (see Figure 6, back sidewall portion of 22); the upper frame member includes a rear portion having a O-shaped structure (see Figure 6, 40); the upper frame member includes a front portion having a flat planar structure; the upper frame member includes a front portion having a flat planar structure (see Figure 6).

However, actually, in Moua et al., the lower frame member 44 and the upper frame member 54 includes one end 42, but not an

intermediate portion coupled together, such that the resilient members 62 are all disposed and located on one side of the one end 42 thereof, and the resilient members 62 may not be separated from each other by an intermediate coupling portion between the lower frame member 44 and the upper frame member 54, and such that the resilient cushioning device 54 may not be formed or acted as a seesaw device.

Similarly, in Lombardino, the lower and the upper frame members 22, 26 have two sides (not intermediate portion) coupled together, such that the resilient members 28, 50 are all disposed and located between the two sides thereof, and the resilient members 28, 50 also may not be separated from each other by an intermediate coupling portion between the lower frame member 22 and the upper frame member 26, and such that the resilient cushioning device 20 also may not be formed or acted as a seesaw device.

By contrast, in Applicant's invention, as amended in the amended claims 1 and 5-9, the lower and the upper frame members (30, 40) include an intermediate portion (33, 43) coupled together with a stay (47), a resilient member (50) engaged between rear portions of the lower frame member and the upper frame member (30, 40), and a resilient member (60) engaged between front portions of the lower frame member and the upper frame member (30, 40), to allow the intermediate portion (33, 43) and the stay (47) to be disposed and located between the resilient members (50, 60), and to form and act as a seesaw device.

The cited arts fail to teach a resilient cushioning device (20) including a lower frame member (30) and an upper frame member

(40) having an intermediate portion (33, 43) coupled together with a stay (47), a resilient member (50) engaged between rear portions and another resilient member (60) engaged between front portions of the lower frame member and the upper frame member (30, 40), to allow the intermediate portion (33, 43) and the stay (47) to be disposed between the resilient members (50, 60), and to form and act as a seesaw device. The applicant's invention is different from that of the cited arts and has improved over the cited arts.

In view of the foregoing amendments and remarks, applicant respectfully submits that the present invention is patentably distinguishable over the cited arts and that the application is now in condition for allowance, and such action is earnestly solicited.

Courtesy and cooperation of Examiner STASHICK are appreciated.

respectfully submitted,

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